IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR

Contempt Petition No.118 of 2007.

In

W. P. No.5014/2005 (Decided).

[Shri Valmik S/o Sayaramji Bawanthale]

Vs.

[Mr. Shahanaz Hussain and 7 Ors.]

Office Notes, Office Memoranda of Coram,appearances,Court's orders or directions and Registrar's orders.	**Court's or Judge's orders**
	Shri N. B. Bargat, Advocate for the applicant. Shri S. K. Keole, Advocate for R-5. Shri C. S. Kaptan Advocate for R-8. **Coram: A. H. JOSHI, J.** **Dated: 30th November 2007.** 1. According to the petitioner, the contents of affidavit of respondent no.8, relying on which Writ Petition No.5014 of 2005 was disposed off, contains false statement that the encroachment was removed. It is seen that said statement made while replying Civil Application in said Writ Petition was not disputed by the petitioner by filing affidavit. This Court, therefore, disposed of Writ Petition.

2. Petitioner has shown from the averment contained in para 19 of Contempt Petition that petitioner had raised a dispute about the fact of removal of encroachment in the process of hearing of writ petition.

3. Notice before admission is issued, only against respondent no.5, since the petition is already dismissed against respondents no.1 to 4 and 6 to 7.

4. It is seen that the petitioner's grievance is that the undertaking contained in purshis filed before this Court is not fulfilled and the affidavit filed in this Court in civil application is not faithful to facts. If this be true, it is a serious matter.

5. The petition, however, does

not reveals that the petitioner has procured the map of the road/lane from City Survey and from other respondents and has verified and identified to demonstrate therefrom if at certain locations encroachments have not been removed.

6. If on the lines, as indicated in para 5 above, the petitioner succeeds in physical verification and is satisfied if some encroachment still exists, he is free to bring the said fact of failure to remove the encroachment to the notice of the respondents, and thereafter, take appropriate steps including execution of said order or any other action against them.

7. Above observations are felt necessary since it is seen that the petitioners' petition was allowed by

this Court in view of the concessions made by the respondents, and now it cannot be believed that he may be falsely prosecuting the claim though more diligence is expected on his part.

8. Petition, therefore, need not be proceeded and has to be disposed of.

JUDGE

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